

APPROVED: Meeting No. 41-93

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 39-93

November 22, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on November 22, 1993, at 7:30 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember Nina A. Weisbroth

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: Administer Oath of Office to
Councilmember-Elect Nina
Weisbroth

The Oath of Office was administered by Mayor Coyle to Nina Weisbroth who assumed the Office of Councilmember this evening. In attendance were Ms. Weisbroth's husband Larry Culleen, their three children, and Ms. Weisbroth's parents, grandmother and brother.

Re: City Manager's Report

1. Mr. Romer reminded everyone that this week the City was observing a new holiday schedule--City Hall would be closed on the Friday following Thanksgiving.

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2. Rockville Cable was broadcasting new programs throughout the month of December. The programs will include a 30-minute feature of the Inaugural ceremony. Other programs airing will include the City government program that Rockville and the Maryland Municipal League worked together in producing, a program on the holiday decorations at Glenview Mansion, replays of the Nutcracker production and a special program on Rockville Senior Center.

3. Mr. Romer explained that the Consent Agenda Item regarding the roof repair project involved work on existing roofs on buildings which used membrane types of roof systems. He said that the roofs which were between 10-15 years of age, involved portions of the City Hall, some buildings on Gude Drive, the roof at the Municipal Swim Center and a portion of the roof of the F.Scott Fitzgerald Theater Social Hall. Mr. Romer said the engineering study would involve analysis of the roofs and recommendations for repair.

Mr. Romer also explained that the Consent Agenda item regarding an analysis of the City's water system was a city-wide engineering analysis involving detection of what might otherwise be undetectable leaks in the systems that could grow into larger leaks and lead to water main failures. He said the study was not foolproof but would indicate areas susceptible to small leaks and the project would aid significantly in looking at ways to improve water systems in the future.

Mayor Coyle acknowledged the presence of former Mayor Doug Duncan who was in attendance for Councilmember Weisbroth's swearing in.

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Re: Approval of Minutes

Meeting No. 36-93 (October 18, 1993)

Mayor Coyle noted corrections on page 1 from the Clerk regarding former Councilmember Robbins' term of office. Councilmember Krasnow also noted that the date of Mr. Robbins' term needed to be corrected on page 5 of the Minutes. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, with Councilmembers Dorsey and Weisbroth abstaining, the Minutes of Meeting No. 36-93, were approved, as corrected.

Meeting No. 37-93 (October 25, 1993)

Councilmember Marrinan noted on page 5, the correct spelling of Eileen McGuckian's name. Councilmember Krasnow noted on page 19 in the next to last paragraph, the word "protective" should be "productive". Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, with Councilmembers Dorsey and Weisbroth abstaining, the Minutes of Meeting No. 37-93, were approved, as corrected.

Meeting No. 38-93 (November 15, 1993)

Councilmember Krasnow noted a correction on page 4 regarding the correct spelling of Libby Baden's name. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, with Councilmember Weisbroth abstaining, the Minutes of Meeting No. 38-93 were approved, as corrected.

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Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. John Moser asked for the Mayor and Council's support in having the City's laws amended regarding the keeping of barn yard animals. He said that a neighbor had a rooster which was disturbing the peace and quiet of the neighborhood. Mr. Moser stated that the Animal Control Board informed him that there was nothing that could be done. Mayor Coyle asked that the City Manager look into the matter.
2. Jim Moone, 1204 Potomac Valley Road congratulated the new members of the Mayor and Council and apologized for not attending the Inaugural ceremonies. He said that the Montgomery County Chapter of the Southern Christian Leadership Conference has enjoyed and hoped to continue the tremendous working relationship with the Mayor, Council and staff. Mr. Moone invited the Mayor and Council to attend SCLC's quarterly meetings. Mr. Moone then congratulated Mr. Romer on receiving the Chamber's Citizen of the Year Award and extended congratulations to Councilmember Dorsey on his election to the Council. Regarding the lack of competition in the City's election, Mr. Moone said he encouraged the citizens of Rockville to not rest on their laurels and reach complacency; he said that while Rockville was a very unique place, there were some problems in the City.
3. Rosa Kapnick, Rockville resident said she was upset about the world situation and she would continue to try hard to bring about peace on earth. She also asked that the Mayor and Council look into why she was denied a property tax credit this year.

Re: Consent Agenda

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- (A) Award of Requirements Contract for delivery of 1100 tons of Road Salt on request, to Morton Salt Division, in the amount of \$34,837.

Sufficient funds are provided in the budget for this award for road salt.

- (B) Award of RFP #26-94 for Water System Hydraulic Analysis and Leakage Survey to Pitometer Associates of Columbia, Maryland, in the amount of \$98,773.92.

This contract will evaluate the City water distribution system determining adequate water pressure and volume, and detecting leaks.

- (C) Award of RFP #28-94 for Roof System Surveys and Consulting Services, to Professional Service Industries, Inc, for the low bid amount of \$27,150.

Sufficient funds are budgeted in the Recreation and Parks Department CIP accounts for this project.

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- (D) Award of Bid #39-94 for Direct Digital Control System for F. Scott Fitzgerald Theater and Social Hall to Combustioneer Corporation of Rockville, Maryland, in the low bid of \$57,695.

This project calls for the installation of a direct digital control system in the above facilities. Sufficient funds are budgeted for this project.

- (E) Receipt of financial reports summarizing the results of City operations for the period from July 1, 1993, through October 31, 1993.

Re: Approval of waiver for on-site SWM for the construction of a single family house at 504 Bickford Avenue in the Watts Branch drainage area, and the acceptance of \$2,000 contribution for the off-site SWM fund.

The runoff is conveyed to the proposed Anderson Park SWM facility.
Waiver category: III-A-1.

Councilmember Krasnow commented that as the City looked at the stormwater waiver process to decide if the current process was adequate, the Council needed to consider a more global issue of when to stand in the way of the development process when a proposed

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stormwater management drainage area was on the books. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the waiver for on-site SWM for the construction of a single family house at 504 Bickford Avenue was approved and the \$2,000 contribution for the off-site SWM fund was accepted.

Re: Introduction of Resolution to enlarge the corporate boundaries of the City of Rockville - Annexation Petition ANX93-0117, Joseph A. Lynott, Attorney for 649 Joint Venture, Petitioner.

This petition request the annexation of 19,406 square feet of land located at the terminus of Mason Drive north of Southlawn Lane.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Resolution enlarging the corporate boundaries of the City of Rockville for Annexation Petition ANX93-0117, was introduced.

Re: Adoption of Resolution to set Public Hearing Date - Annexation Petition ANX93-0117, Joseph A. Lynott, Attorney for 649 Joint Venture, Petitioner.

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This resolution establishes a public hearing date of January 18, 1994 for Annexation Petition ANX93-0117.

Resolution No. 26-93

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Resolution setting the public hearing date of January 18, 1993 for Annexation Petition ANX93-0117 was approved. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Introduction of Resolution to enlarge the Corporate Boundaries of the City of Rockville - Annexation Petition ANX93-0118, Josef and Malgorzata Pilch, Petitioners.

This petition requests the annexation of a 1.071 acre of single residential property located at 9304 Viers Drive.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Resolution to enlarge the Corporate Boundaries of the City of Rockville for Annexation Petition ANX93-0118, was introduced.

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Re: Adoption of Resolution to set Public Hearing Date - Annexation Petition ANX93-0118, Josef and Malgorzata Pilch, Petitioners.

This resolution establishes a public hearing date of January 18, 1994 for Annexation Petition ANX93-0118.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Resolution setting the public hearing date of January 18, 1993 for Annexation Petition ANX93-0118 was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Adoption of Ordinance to amend Ordinance Number 9-93, appropriating funds and levying taxes for Fiscal Year 1994.

Each fall, the appropriations ordinance is amended to provide funding for encumbrances which were outstanding at the end of the previous fiscal year.

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Also included in this year's proposal are funds for a project which was incomplete at year end and funds for a new before school day care program. The total amount to be added to the budget by this ordinance is \$354,535.

Ordinance No. 22-93

Mayor Coyle noted that the funds were in the City's current appropriation and happened to be available for the City's Fallsmead Day Care CAP program, which was a self-sustaining program and would not be at the expense of any other project. Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Ordinance amending Ordinance Number 9-93, appropriating funds and levying taxes for Fiscal Year 1994, the full copy of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

Re: Adoption of Ordinance to levy special assessments relating to driveway aprons done in Fiscal Year 1993. The aggregate cost of the thirty aprons was \$18,632.48.

Ordinance No. 23-93

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Ordinance levying special assessments, a full copy of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

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Re: Adoption of Resolution to
approve Cable Television
Franchise Transfer to SBC-
Media Ventures, Inc.

Resolution No. 28-93

Public Information Officer Don Vandrey explained that the cable franchise had been transferred twice since being awarded in 1984; the City was one of several Montgomery County municipalities that originally joined the County franchise and as a co-franchisor, this gave the City approval authority over any franchise transfer. He said the County Council held a public hearing in July and the County Executive had recommended approval of the transfer; the County Council was scheduled to act on the matter on November 23rd.

Councilmember Weisbroth asked for a clarification noted in the Staff report regarding the County's obligation towards an "only Rockville" station; she asked how the obligation worked out in terms of the transfer. Mr. Vandrey explained that SBC indicated that this was an issue between the County and the municipalities--they would provide the number of PEG channels as required in the contract and in the City's contract with the County which dated back to the original franchise, the municipality agreed to join that franchise and provide its population to the system in which the City was guaranteed the County-wide channel. Mr. Vandrey said that this was very specific and clear in the agreement and that he did not anticipate any problems.

Councilmember Krasnow said that when cable service first came into the County, it was to be considerably lower than anything offered to consumers; however, she noted that the rates

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started at a high level and have increased consistently since that time. She suggested that the City try to do what it could to keep a low basic cable service cost available to the residents.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Resolution approving the Cable Television Franchise Transfer, was adopted. The full text of the Resolution can be found in Resolution Book No. 10 of the Mayor and Council.

Re: Discussion and Instructions to Staff regarding Map Amendment Application M-60-93, Miller, Miller and Canby, Attorneys for the Estate of William A. Linthicum, Applicant.

Amendment to the Zoning Map so as to reclassify a 9,834 square foot property at 110 S. Washington Street from the R-90 Residential Zone to the O-1 Office Zone.

Mayor Coyle questioned if most of the properties on the North side of Washington Street had now been reclassified as offices. Councilmember Weisbroth clarified that this was true. Staff was instructed to prepare and bring forth an Ordinance to introduce Map Amendment Application M-60-93 on December 13th.

Re: Discussion and Instructions to Staff regarding Map Amendment Application M-61-93, Potomac Capital Investment Corporation, Applicant.

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Amendment to the Zoning Map so as to reclassify a 24.54 acre portion of the PEPCO property between W. Gude Drive and Redland Road from the I-2, Light Industrial Zone to the I-3, Industrial Park Zone.

Staff was instructed to prepare and bring forth an Ordinance to introduce Map Amendment Application M-61-93 on December 13th.

Re: Discussion and Instructions to Staff regarding Text Amendment Application T-137-93, Joseph A. Lynott, Attorney for Federal Realty Investment Trust, Applicant.

Amendment to the parking requirements section of the Zoning Ordinance so as to establish a separate parking standard for shopping centers and reduce the parking requirement for retail establishments.

Mr. Romer noted that the Planning Commission and staff had recommended approval of what he said had become a modified text amendment from what was originally submitted.

Councilmember Krasnow said that she noted with interest the original application filed by Joe Lynott was quite different than what staff ended up; she said staff's recommendation

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was not nearly as great a reduction as what was requested. Ms. Krasnow also said she was worried about parking space reductions and asked for clarification.

Chief of Planning, Larry Owens, said the text amendment which only applied to shopping centers with 150,000 square feet or greater could have up to 15% of the gross leasable space devoted to one or more restaurants. He said if they maintained the 15% or less, the restaurant was at the same ratio as the entire center. He said if the restaurant space cumulatively consumed more than 15% of the gross floor area of the center, they would still be providing the one space for 4,000 for all the gross area but would have to add additional parking based on the additional amount of restaurant space.

Staff was instructed to prepare an Ordinance based on the Planning Commission's report. Mr. Glasgow explained that with a quorum vote, the Mayor and Council could waive the layover requirement and proceed with adoption of the Ordinance at the time of introduction on December 13th. Staff was instructed to proceed with introduction and adoption of an Ordinance on December 13th.

Re: Discussion and Instructions to Staff regarding Text Amendment Application T-140-93, Rockville Center, Inc., Applicant.

Amendments to the Town Center development regulations of the Zoning Ordinance to establish a new optional method of development in the Town Center mixed use zones,

and to make other
modifications applicable to
all Town Center zones.

Mr. Owens said it was important to understand that the text amendment had two purposes: to help implement the development agreement executed between the Mayor and Council and RCI for the new Town Center project. He also said the existing Town Center regulations were specifically drafted some years ago to implement the previous Town Center Master Plan and many of the regulations in the Ordinance were inoperable. He said since the City adopted a new Master Plan, there was a broader implication for the text amendment beyond RCI's immediate needs for the project.

Mr. Owens said the concept of the original text amendment was suggested by staff and modifications were submitted by RCI. The text amendment recommended by the Planning Commission, which was the subject of the Mayor and Council's original public hearing, contained three groups of changes and modifications to the one filed by the applicant. He noted that there were specific provisions changed to reflect the original version proposed by staff which included traffic mitigation matters, parking reductions and the review authority over the applicant's filing for the new optional method of development. Secondly, he said changes and additions were made to the optional method development procedure that were intended to expand the applicability of the new provision to make it potentially more available to other properties and to require that a mix of uses to be included involved optional method developments including residential, commercial and office components. Mr. Owens said a third group of amendments were new regulations and were proposed for all of four Town Center zones which affected uses, building heights, building density,

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or any ratio calculations.

Mr. Owens said that a review of the Mayor and Council's record from the public hearing indicated that only two parties had presented issues: RCI presented concerns over the way in which the text amendment addressed mitigation of traffic impacts, parking requirements, FAR ratios, building heights and the approval authority method. In addition, the Planning Commission addressed the same issues from a different viewpoint; they believed these issues were resolved at its October meeting and RCI was subsequently seeking further modifications to what was agreed upon before the Planning Commission which served as the Commission's basis for recommending approval. Mr. Owens noted there were five basic issues listed and believed that three of the issues did not need any further change as far as the text amendment was concerned. Regarding traffic impact studies and mitigation, Mr. Owens said staff believed that present policy and procedures give a degree of flexibility for accommodating mitigation. In the matter of further parking reductions, which appear to be suggested based on what would be needed when the City became involved in a parking district type of arrangement, Mr. Owens said while it was possible there would be further modifications in the future, there did not seem to be any basis for discussion for further parking reductions beyond the 40% reduction provided for in the Zoning Ordinance at this time. Regarding building heights, he said the matter was resolved at a subsequent meeting between the Planning Commission and representatives of RCI. The Planning Commission recommended a variation that would allow the Commission to grant waivers from the established building height for non habitable space on rooftops. He said the fourth and fifth issues which would require direction from Mayor and Council were issues regarding floor area ratio -- the text recommended

the floor ratio in the TCO-2 zone be reduced from 6 to 4, and RCI contended that while they don't need the FAR of 6, they need more than 4. Mr. Owens suggested that perhaps some variation could be suggested, i.e., allowing the FAR of 6 to be provided for the optional method not in the development by right. The other item needing Mayor and Council direction on was the matter of the review authority--the applicant suggested that the Mayor and Council retain some appeal or review authority over the Planning Commission and the new optional method of development.

The Mayor and Council discussed at length and reached consensus on the following issues:

- o Parking Requirements - Stay with 30% and keep the option of going up to a maximum of 40% parking reduction. Councilmember Krasnow asked that in the future, information be provided to the Mayor and Council on what type of parking reductions were granted in conjunction with the establishment of transportation management districts.
- o Floor Area Ratio (FAR) - Change the FAR to 6 on the optional method and leave it at 4 for development by right.
- o Building Heights - Mayor and Council were in agreement with staff's recommendation.
- o Approval Activity - General comment that they understood the concerns raised by RCI; however, they feel that the review of concept plans and proposals is a function of the Planning Commission, and in Rockville, the system has worked well. The Mayor and Council agreed to continue the process as it is.

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o "Modifications" for Text Amendment - Mayor and Council agreed that by requiring residential, commercial and office uses, the hope was to allow different types of development. However, they noted that such a requirement could be as restrictive as having only one type of development in Town Center as opposed to allowing the market forces to drive what would happen. Staff was asked to build a provision into the text amendment to allow the Planning Commission to authorize modifications.

Re: New Business

1. Councilmember Marrinan noted that the 1993 Regional Holiday "Don't Drink and Drive Campaign", sponsored by the Greater Washington Board of Trade and other associations, was underway. He asked that the City help to publicize the region-wide program which encouraged the use of free cab rides that were available from December 1 through January 2, 1994 for would-be drunk drivers. Mr. Marrinan noted the phone number to request the free cab ride: 1-800-778-8294.

2. Councilmember Krasnow noted that an article in the December 20th issue of The Economist magazine regarding unfunded mandates, focused on the City of Rockville.

3. Councilmember Krasnow said that a resident had expressed concern about the amount of trash on Wootton Parkway and Tower Oaks Boulevard. She asked that staff look into the idea of adopting portions of these roadways.

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Re: Next Meeting

Mayor Coyle noted that the next meeting would be a series of Public Hearings on November 29, 1993: to take comments on Text Amendment application T-139-93, regarding accessory use to places of worship, and two proposed amendments to the Rockville Charter.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:30 p.m., to convene again in Public Hearing on November 29, 1993 at 7:30 p.m. on November 29, 1993, or at the call of the Mayor.